



**Local Agency
Formation Commission**
LAFCO of Napa County

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JUNE 10, 2004
AGENDA ITEM NO. 8a

June 3, 2004

TO: Local Agency Formation Commission

FROM: Daniel Schwarz, Executive Officer
Keene Simonds, Analyst

SUBJECT: *Comprehensive Water Service Study*: Congress Valley Water District
Supplemental Review; Service Review Determinations

At its April 10, 2004 meeting, staff presented the Commission with final determinations for the Congress Valley Water District as part of the *Comprehensive Water Service Study*. The draft determinations were presented to the Commission for its consideration and approval pursuant to California Government Code §56430. Following a discussion regarding the operation of the District, the Commission voted to continue consideration of this item to its June 10, 2004 meeting. The Commission also directed staff to provide additional information regarding the ability of the City of Napa to assume all water service obligations for residents of Congress Valley in the event the District was dissolved.

The decision by the Commission to continue this item was prompted by comments offered at the meeting by Napa's Finance Director, Jed Christensen. Mr. Christensen recommended that the Commission dissolve the District because, in his view, it no longer serves a viable role in the delivery of water service to its constituents. Mr. Christensen noted that the District is completely dependent on Napa's facilities and operations with respect to the delivery of water service to its constituents. Mr. Christensen also questioned the District's decision not to use its cash reserves to satisfy its long-term debt with the State of California. Mr. Christensen added that upon dissolution, Napa would continue to provide water service to residents of Congress Valley along with satisfying the District's long-term debt.

For the purposes of responding to these comments and addressing other issues raised at the Commission's April meeting, staff has prepared a supplemental review. This review provides an overview of the key components of the District's service agreement with Napa and the necessary findings required to dissolve a special district under California Government Code. A copy of the written comments received from the District in response to issues raised at the April meeting is also attached for the Commission's review.

Harry Martin, Chair
Councilmember, City of Napa

Ken Slavens, Commissioner
Mayor, City of St. Helena

Lori Luporini, Alt. Commissioner
Mayor, City of American Canyon

Mike Rippey, Vice-Chair
Supervisor, 5th District

Brad Wagenknecht, Commissioner
Supervisor, 1st District

Bill Dodd, Alt. Commissioner
Supervisor, 4th District

Guy Kay, Commissioner
Representative of the General Public

Volker Eisele, Alt. Commissioner
Representative of the General Public

Daniel Schwarz
Executive Officer

Background

The District was formed in 1949 to facilitate an agreement with Napa for the procurement of a potable water supply. The current service agreement between the District and Napa was reached in 1987. This agreement provides the District with an annual allocation of 100 acre-feet of potable water through 2017, and limits service to no more than 140 service connections to parcels of legal record as of 1987. The agreement specifies that the District shall voluntarily dissolve and turn over all assets to Napa in July 2017. Notably, the agreement does not specify how customers within Congress Valley will be treated upon the dissolution of the District.

The District is dependent on Napa's supply, treatment, transmission, and storage facilities to provide water service to its customers. However, the District owns the distribution system underlying its service area. This distribution system was originally built in 1952 and resized in 1989 with funds from a grant and low-interest loan from the California Department of Water Resources. Primary duties of the District include authorizing new service connections, collecting connection fees, and coordinating service requests to Napa's Water Division. The District currently administers water service to 74 connections. In all, there are 107 parcels located within the District's jurisdictional boundary.

Discussion/Analysis

In approving a LAFCO initiated dissolution of a special district, the Commission is required to make two determinations pursuant to California Government Code §56881. First, the Commission must determine that service costs following a proposed dissolution are likely to be less than or substantially similar to the costs of alternate means of providing service. Second, the Commission must determine that a proposed dissolution promotes public access and accountability for community service needs and financial resources. Further, both determinations must be consistent with a recommendation or conclusion of a sphere of influence, municipal service review, or other study initiated by the Commission. A preliminary review of the application of these determinations as it relates to the District is provided below.

Costs:

All property owners within its jurisdictional boundary contribute a portion of their property taxes to the District regardless if they receive water service. During the 2002-2003, the District received \$23,954 in property tax proceeds. Property owners receiving water service from the District are also charged a bimonthly water usage fee, which is billed and collected by Napa. The District presently maintains its water rates at a level and structure identical to the rate and structure adopted by Napa for customers located within its incorporated territory.

Upon dissolution of the District, the District's property tax proceeds would be reallocated to other agencies. Napa policy would also require an adjustment of water rates for existing customers within Congress Valley to reflect its adopted rate structure for outside city customers. Under Napa's current rate schedule, this would result in an increase to District customers of approximately 34 percent, or \$1.09 more for every 1,000 gallons of water delivered. Further analysis regarding the relationship between present and future water rates

and present and future costs of service is needed to make a determination regarding the actual impact on service costs following dissolution of the District.

Community Service Needs and Financial Resources:

In evaluating whether dissolution of the District would promote accountability of community service needs, it is important to note the impact dissolution would have on the ability of Napa to provide future water service to Congress Valley. Napa's ability to provide water service to District customers is presently allowed under California Government Code §56133 (copy attached). This code section, which prohibits local agencies from extending service to territory outside of their jurisdiction without first obtaining the approval of LAFCO, exempts agreements between public agencies. However, if the District was dissolved, at a minimum, Napa would be restricted from extending water service to additional customers in Congress Valley. This means that property owners within the District who have helped fund the distribution system through an allocation of their property taxes without establishing water service would not be able to receive service from Napa unless approved by the Commission. The Commission is also restricted from approving an outside water service agreement beyond an agency's sphere of influence unless it is response to an existing or impending public health or safety threat. There are currently 33 parcels, representing 31 percent of the total number of parcels, within the District that have not established water service. It is unknown whether any of these property owners require or anticipate establishing water service at a future date.

It is also unclear whether the dissolution of the District would represent a violation of the aforementioned code section. Because Napa's current agreement is with the District and not with individual property owners, the dissolution of the District could be interpreted as creating 74 new service agreements. Under this interpretation, Napa's ability to serve customers outside its sphere of influence in Congress Valley would be contingent on prior approval from the Commission. Based on these issues, further analysis is needed to determine if dissolution of the District would help to meet the service needs of the entire community and/or is permissible under California Government Code.

With respect to promoting accountability relating to financial resources, the District currently maintains a cash reserve balance of \$511,169. This amount exceeds the \$260,000 in debt obligations the District maintains, which stems from financing the construction of its distribution system in the 1980s. The amount of money placed in reserves by a special district is typically set aside to help fund future projects, studies, or subsidize unexpected losses. The District's stated purpose for maintaining its current reserve – in lieu of immediately satisfying its long-term debt obligation – is to have sufficient funds available to finance emergency repairs or future studies. Staff agrees with the comments offered by Napa's Finance Director at the Commission's April meeting regarding the need for the District to clarify the use of its reserves. Staff recommends the District develop and document a strategy towards managing its cash reserves.

Summary

The objective of dissolving a special district is to eliminate an agency that has outlived its purpose. As noted, the District was formed in 1949 to facilitate an agreement with Napa for the procurement of a potable water supply. The District has been successful in meeting its

service objective by administering a water service agreement with Napa since 1951. This agreement provides the District with an adequate supply of potable water to meet existing and future water demands under normal conditions.

Based on a preliminary review, the advantages associated with dissolving the District would include allowing Napa to freely plan and coordinate service projects for customers in Congress Valley without the oversight of an outside governing body. However, at a minimum, Napa would be precluded from extending service to those property owners within District's jurisdictional boundary who have not established water service (California Government Code §56133). Further, it is unclear whether the dissolution of the District would violate existing law concerning the prohibition of providing municipal services outside an agency's sphere of influence. These issues draw into question whether dissolution of the District would meet the service needs of the entire community – a determination the Commission must make when approving a proposal to dissolve a special district (California Government Code §56881).

Other factors to be considered include the role of reclaimed water service in Congress Valley. Although no plans exist for the delivery of reclaimed water service to the area at this time, interest may exist among District constituents. If interest does exist, the District could play an important role in the delivery of reclaimed water to Congress Valley. This could include helping to secure a service agreement with the affected service provider along with contributing to the funding of the required infrastructure. Collectively, these issues suggest that the District has not outlived its purpose at this time. These issues also suggest there may be reasons for the District to continue operating beyond its scheduled dissolution in 2017. For these reasons, staff does not believe a dissolution study is warranted at this time.

Based on the foregoing analysis, staff resubmits the determinations contained in the draft resolution presented at the April 8, 2004 meeting for the Commission's consideration and approval. This draft resolution making determinations with respect to the District's water service operations would fulfill LAFCO's mandate under California Government Code §56430.

RECOMMENDATION

It is recommended for the Commission to take the following action:

- 1) Approve the form for the attached resolution making determinations with respect to the water service operations for the Congress Valley Water District pursuant to Government Code §56430.

Respectfully submitted,

Daniel Schwarz
Executive Officer

Keene Simonds
Analyst

Attachments:

- 1) Draft Resolution
- 2) CVWD Written Comments, dated May 18, 2004

RESOLUTION NO. ____

**RESOLUTION OF
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
MAKING DETERMINATIONS**

**COMPREHENSIVE WATER SERVICE STUDY
SERVICE REVIEW
CONGRESS VALLEY WATER DISTRICT**

WHEREAS, the Local Agency Formation Commission of Napa County (hereinafter referred to as “the Commission”) may conduct service reviews of local agencies pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq., hereinafter referred to as “Act”); and

WHEREAS, the Commission adopted a schedule for service reviews on October 11, 2001; and

WHEREAS, pursuant to Government Code Section 56430, the Executive Officer designated a countywide service review of public water service in Napa County, which includes territory served by the Congress Valley Water District; and

WHEREAS, pursuant to its adopted schedule, the Commission held a public workshop on the “Comprehensive Water Service Study”, including the service review of the Congress Valley Water District’s water services, on June 12, 2003; and

WHEREAS, the Executive Officer prepared a written report of this service review that was presented to the Commission in the manner provided by law; and

WHEREAS, the Commission heard and fully considered all the evidence presented at its public workshop on June 12, 2003 and at meetings of the Commission on February 26, 2004, April 8, 2004, and June 10, 2004; and

WHEREAS, as part of this service review, the Commission is required pursuant to Government Code Section 56430(a) to make a statement of written determinations with regards to certain factors.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

**COMPREHENSIVE WATER SERVICE STUDY
SERVICE REVIEW
CONGRESS VALLEY WATER DISTRICT**

1. In accordance with the adopted Local Agency Formation Commission Environmental Impact Report Guidelines, and applicable provisions of the California Environmental Quality Act (CEQA), the Commission hereby determines that this service review is exempt from the provisions of CEQA under Section 15306 of the State CEQA Guidelines (Title 14 of the California Code of Regulations Section 15306). The service review is a data collection and research study. The information contained within the service review may be used to consider future actions that will be subject to environmental review.
2. The Commission adopts the statement of determinations set forth in "Exhibit A" which is attached and hereby incorporated by reference.

The foregoing resolution was duly and regularly adopted by the Local Agency Formation Commission of Napa County, State of California, at a regular meeting held on the 10th day of June, 2004, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSTAIN: Commissioners _____

ATTEST: EXECUTIVE OFFICER

Clerk of the Commission

By: _____

EXHIBIT A

COMPREHENSIVE WATER SERVICE STUDY

SERVICE REVIEW

CONGRESS VALLEY WATER DISTRICT

STATEMENT OF DETERMINATIONS

1. With respect to infrastructure needs or deficiencies [Government Code §56430(a) (1)], the Commission determines that:
 - The Congress Valley Water District indirectly provides water service to its constituents through an agreement with the City of Napa. This agreement provides the District with an adequate supply of water to meet existing and future water demands under normal conditions within the timeframe of this study.
 - It is anticipated that the Congress Valley Water District's contracted supply of potable water will be proportionally reduced during periods of below normal and dry year conditions as a result of conservation measures implemented by the City of Napa. To lessen the impact to its constituents during these periods, the District should make a concerted effort to reduce system demands by promoting and developing water conservation programs in consultation with Napa.
 - The ability of the Congress Valley Water District to provide water service to its constituents is dependent on the supply, treatment, distribution, and storage facilities of the City of Napa. Any impediment or interruption in Napa's water system operations would diminish service levels and likely result in water shortages within the District.
 - The City of Napa has established an effective program for evaluating its water service operations with respect to addressing infrastructure needs or deficiencies. Napa's management of its water service operations helps to ensure adequate supply and capacity for constituents of the Congress Valley Water District and provides assurance that needed infrastructure improvements are implemented in a timely manner.
 - The Congress Valley Water District should continue to work with the City of Napa to identify and address mutually beneficial system improvements to maintain an adequate level of water service within its jurisdictional boundary.

2. With respect to growth and population projections for the affected area [Government Code §56430(a) (2)], the Commission determines that:
 - The Congress Valley Water District is under the land use authority of the County of Napa. Land located within the District is zoned “Agricultural Watershed.” This zoning standard helps to restrict future development within the District by requiring minimum parcels sizes of at least 160 acres.
 - There are eight parcels located within the Congress Valley Water District’s jurisdictional boundary under “Williamson Act” contracts with the County of Napa. These parcels represent approximately forty percent of the entire jurisdictional boundary and help to ensure the preservation of agriculture and open space as significant land uses within the District.
 - The Congress Valley Water District’s water supply agreement with the City of Napa, which allocates 100 acre-feet per year and authorizes the District to allow up to 140 service connections to parcels of legal record as of 1987, constrains growth while providing appropriate parameters for the District to accommodate future service demands.
 - The calculation formula codified in Title 22 of the California Code of Regulations §64412(a)(2) is an appropriate method in estimating the total population served by Congress Valley Water District’s water service system. The population served by the District’s water system based on this calculation method is 244.
3. With respect to financing constraints and opportunities [Government Code §56430(a) (3)], the Commission determines that:
 - Under its agreement with the City of Napa, the Congress Valley Water District is not responsible for costs relating to the operation, maintenance, or replacement of facilities involved in the delivery of potable water within its jurisdictional boundary. This arrangement allows the District to apply its revenue sources for a variety of non-operational purposes, such as funding special studies and paying down long-term debt.
 - The Congress Valley Water District can generate additional revenue by collecting a surcharge on water sales within its jurisdictional boundary. This feature allows the District to raise additional revenue to finance unexpected costs or special projects without depleting its cash reserves or relying on outside financing.

4. With respect to cost avoidance opportunities [Government Code §56430(a) (4)], the Commission determines that:
 - The Congress Valley Water District's agreement with the City of Napa eliminates costs for the District with respect to the delivery of potable water service to its constituents. Notable cost-savings associated with this agreement include providing the District with access to a wide range of administrative and operational support, including billing and collections, engineering, and maintenance personnel.
 - The decision by the Congress Valley Water District to contract for water service with the City of Napa reflects the financial constraints associated with developing its own water resources and promotes the benefits of local partnerships.
5. With respect to opportunities for rate restructuring [Government Code §56430(a) (5)], the Commission determines that:
 - The Congress Valley Water District maintains its water rates at a level and structure identical to the rate and structure adopted by the City of Napa for customers located within its incorporated territory. This practice provides District constituents with a distinct economic advantage, as their rates are – on average – lower than the rates offered by the other four special districts providing potable water service in Napa County.
 - In the event the City of Napa increases its water service rates for customers located within its incorporated boundary, the Congress Valley Water District may choose to increase its rates to remain concurrent with the City. This is a fair and equitable approach to ensure that District constituents pay an equal share of increased operational costs and capital improvement projects as beneficiaries of Napa's water service operations.
6. With respect to opportunities for shared facilities [Government Code §56430(a) (6)], the Commission determines that:
 - The Congress Valley Water District's agreement with the City of Napa represents a successful partnership promoting the benefits and cost-effectiveness of shared facilities and staff resources while achieving the District's objective to provide a reliable source of water for its constituents.

7. With respect to government structure options, including advantages and disadvantages of consolidation or reorganization of service providers [Government Code §56430(a) (7)], the Commission determines that:
- The Congress Valley Water District is the only public agency providing water service within its jurisdictional boundary. There are two other public agencies empowered to provide water service whose jurisdictions overlap that of the District: the Napa County Flood Control and Water Conservation District and Napa County Resource Conservation District. Both of these agencies have elected not to offer water service, and have expressed no intentions of doing so in the foreseeable future.
 - The Congress Valley Water District is empowered under the County Water District Act to provide seven municipal services: water, sewer, land reclamation, fire, recreation, sanitation, and hydroelectric power. Due to its rural residential use and agricultural land use designation under the County of Napa, the District does not require a full range of municipal services. Only water for domestic and agricultural use is an appropriate and needed service within the District.
 - The Congress Valley Water District has been successful in achieving its original service objective to facilitate an agreement on behalf of its constituents with the City of Napa for the procurement of a potable water supply. The formation of the District and its subsequent management has proven to be a responsive instrument in meeting the service needs of the community by localizing costs for the direct benefit of its constituents.
 - The Congress Valley Water District currently provides water service to an unincorporated “island” parcel located at 4062 Old Sonoma Road. Since it is prohibited from extending water service to this parcel through an outside service agreement based on its agreement with the City of Napa, the District is encouraged to initiate annexation proceedings or amend its agreement with Napa to allow it to request an outsider service agreement from the Commission. Successful implementation of either action will bring the District in compliance with the Cortese-Knox-Hertzberg Reorganization Act of 2000.
 - In the event the Congress Valley Water District is dissolved, the City of Napa would be prohibited from providing new or extended water service within the District’s former jurisdiction without first obtaining the approval of the Commission pursuant to Government Code §56133. Under these circumstances, landowners within the District who have helped fund the distribution system through an allocation of their property taxes without establishing water service would not be able to receive service unless approved by the Commission.
 - Future municipal service reviews should focus on whether the scheduled dissolution of the Congress Valley Water District at the conclusion of its agreement with the City of Napa is appropriate to best meet the service needs of its constituents beyond 2017.

8. With respect to evaluation of management efficiencies [Government Code §56430(a) (8)], the Commission determines that:

- Each year, the Congress Valley Water District provides a summary of past and projected revenues and expenditures as part of its annual budget. The budget is adopted following a publicly noticed board meeting in which members of the public are allowed to comment and offer suggestions with respect to expenditures relating to District activities. In addition to enhancing the accountability of elected and appointed officials, the District's budget process provides a clear directive towards board members and staff with respect to prioritizing local resources.
- The Congress Valley Water District has sufficient capital reserves to help finance special projects or emergency improvements to its distribution system; reserves are generated from interest on previously accumulated reserves, property taxes, and connection fees. Applying surplus revenue from these sources is a fair and equitable approach to passing capital expenditures to ratepayers without incurring or relying on loans, special assessments, or bonded indebtedness to fund unexpected or anomalous projects.
- The Congress Valley Water District should evaluate interest among its constituents towards developing reclaimed water service within its jurisdictional boundary. The development of reclaimed water service within the District would provide an alternative water source for agriculture and landscape users while maximizing existing water resources within the community.
- The Congress Valley Water District should develop a strategy towards managing its cash reserves in anticipation of its scheduled dissolution in 2017.

9. With respect to local accountability and governance [Government Code §56430(a) (9)], the Commission determines that:

- The Congress Valley Water District's board meetings are conducted once a month and are open to the public. Public inquiries involving water service operations can be addressed to the Board at this time. Regularly scheduled council meetings provide an opportunity for District constituents to ask questions of their elected and appointed representatives, while helping to ensure that service information is being effectively communicated to the public.
- The Congress Valley Water District's governing body is comprised of five directors serving reappointed terms in lieu of other candidates seeking election. The lack of participation among constituents to serve on the District's governing board reflects a need for improving public outreach efforts to remind constituents of the role of the District and the importance of community involvement in its decision making process.

Exhibit A

- In anticipation of future board member departures, the Congress Valley Water District should begin to recruit and acquaint new board member candidates with respect to local service goals and objectives. This will help to ensure a viable pool of successor candidates, and provide an opportunity to cultivate new perspectives and approaches that may prove successful in meeting the service needs of the District
- The Congress Valley Water District relies largely on the efforts of the City of Napa to inform its constituents regarding water service operations within its jurisdictional boundary. The District should make a concerted effort to improve its public dialogue with its constituents by better publicizing its meetings, establishing a dedicated phone line, and developing an annual newsletter. These efforts would enhance its local accountability, foster greater public participation, and help increase its visibility as the local water use authority.
- The Congress Valley Water District is governed by a responsive and dedicated board and staff. These characteristics enhance local accountability and cultivate desirable working relationships with members of the public as well as other agencies.